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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,362	10/16/2003	Dongping Lin	3896-002	2296
22440	7590	02/15/2005	EXAMINER	
GOTTLIEB RACKMAN & REISMAN PC 270 MADISON AVENUE 8TH FLOOR NEW YORK, NY 100160601			LAYNO, CARL HERNANDZ	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,362

Applicant(s)

LIN ET AL.

Examiner

Carl H. Layno *Carl H. Layno* 2/11/05

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-37, 39-45 and 47-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 47 and 49-51 is/are allowed.
- 6) ☒ Claim(s) 34-37, 40, 45, 48 and 52 is/are rejected.
- 7) ☒ Claim(s) 39 and 41-44 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Acknowledgment is made of applicant's amendment which was received by the Office on December 16, 2004.

2. Claims 1-33, 38, and 46 are canceled. Claims 34-37, 39-45, and 47-52 are active.

Drawings

3. In view of applicant's claim cancellations, the applicant's originally submitted formal drawings, which were received by the Office on October 16, 2003, are now approved by the Examiner.

Claim Objections

4. In view of the applicant's modifications to claim 37, the Examiner is withdrawing the objection, which was made against this claim, in the last Office action.

Claim Rejections - 35 USC § 112

5. In view of applicant's cancellation of claims 31-33, the Examiner is withdrawing the 35 U.S.C 112 rejections which were made against these claims in the last Office action.

Claim Rejections - 35 USC § 102

6. Upon further reconsideration of applicant's claim cancellations and amendments, the Examiner is withdrawing the 35 U.S.C 102 rejections based upon the Heilman et al '134, Owen et al '233, Campbell '185-A2, and Borgenicht '082 patents, which were made against claims 31, 34-37, 40 and 46 in the last Office action.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 34-37, 40, 45, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell '185-A2 in view of Olson et al '912-A2.

The Campbell '185-A2 European Patent, cited in the last Office action, describes a defibrillator (Fig.1) which can operate both automatically and semi-automatically. The defibrillator comprises electrodes for attachment to a patient **101**, signal processing circuit **102**, A/D converter **103**, and microprocessors **104,105**. The device may operate in an "advisory mode" but does not currently specify any self-test mechanisms.

The Olson et al '912-A2 European Patent also describes an automatic external defibrillator having many of applicant's claimed components (Fig.6) but additionally reciting the use of self-test circuits that automatically perform daily and weekly tests of electrodes, battery, and high voltage circuits.

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To have equipped, or specified, the Campbell defibrillator with self-test circuits for identifying circuit or device faults and insuring the proper working operation of the device would have been an obvious modification to one of ordinary skill in the art of automatic defibrillators since the use of such circuits is well known in the art, as exemplified by Olson et al '912-A2.

In regard to claims 45 and 52, the Campbell defibrillator permits a patient to manually activate the delivery of a defibrillation pulse (Abstract, lines 10-15 and col.1, line 56 thru col. 2, line 3). As written, the claim language does not discriminate between Campbell's semi-automatic mode and applicant's "manual mode of operation".

Double Patenting

9. Claim 48 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 18 of U.S. Patent No. 6,289,243. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claims specify the use of an external defibrillator comprising an electrode, a detector circuit, a microprocessor, a pulse generator, and an inhibit switch.

Allowable Subject Matter

10. Claims 47 and 49-51 are allowed.

11. Claims 39 and 41-44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

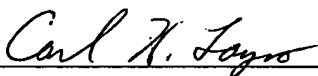
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Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl H. Layno whose telephone number is (571) 272-4949. The examiner can normally be reached on Monday thru Thursday from 9 AM to 6 PM and every other Friday between 9AM and 5PM. A voice mail or E-mail message (carl.layno@uspto.gov) may be left if desired.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes, can be reached on (571) 272-4955. All faxed correspondence should be sent to the Office's Official FAX number (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Legal Instruments Examiner (LIE) Brenda Webb whose telephone number is (571) 272-4399.



CARL LAYNO
PRIMARY EXAMINER

CHL
2/11/2005